

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

DORMAN ANGEL, et al.	:	CIVIL ACTION NO. C-1-01-467
	:	
Plaintiffs	:	JUDGE: SANDRA S. BECKWITH
	:	
vs.	:	
UNITED PAPERWORKERS INTERNATIONAL UNION (PACE) LOCAL 1967, et al.	:	<u>PLAINTIFFS' MEMORANDUM IN RESPONSE TO THE COURT'S SHOW CAUSE ORDER</u>
	:	
Defendants	:	

On November 3, 2004, this Court issued a show cause order relating to the motion for summary judgment filed by International Paper Company (“IP”). This memorandum is submitted in response to the show cause order.

RESPECTFULLY SUBMITTED,

/s/ Mark J. Byrne
MARK J. BYRNE - #0029243
JACOBS, KLEINMAN, SEIBEL & MCNALLY
Trial Attorneys for Plaintiffs
2300 Kroger Building
1014 Vine Street
Cincinnati, OH 45202
Tele: (513) 381-6600
Fax: (513) 381-4150
E-mail: mbyrne@jksmlaw.com

MEMORANDUM

As a result of the Court’s prior ruling on the motions to dismiss, two counts in the Amended Complaint remain against IP on behalf of the Plaintiffs. (Doc. 61) Count VI, a claim for age discrimination exists, and in Count IX, a claim for disability discrimination on behalf of

Plaintiff Bauer remains. Counsel for Plaintiffs and counsel for IP have discussed the resolution of these issues, most recently on November 22, 2004. Based upon the evidence to date and this Court's prior decision in Case No. 1:01cv527, captioned *Campbell, et al. v. International Paper, et al.*, the Plaintiffs have no evidence at this point in time of any age discrimination by IP as it relates to the complaint that now exists. Therefore, Plaintiffs withdraw their claim under Count VI. That withdraw is with prejudice.

In addition, as to the claim contained in Count IX, counsel for Plaintiffs and Defendant have agreed that for the next week they will discuss the resolution of that claim through settlement. Therefore, Plaintiffs and Defendant IP agree that the Court may hold off any ruling relating to Count IX as for Plaintiff Bauer in his claim of disability discrimination..

RESPECTFULLY SUBMITTED,

/s/ Mark J. Byrne
MARK J. BYRNE - #0029243
JACOBS, KLEINMAN, SEIBEL & MCNALLY
Trial Attorneys for Plaintiffs
2300 Kroger Building
1014 Vine Street
Cincinnati, OH 45202
Tele: (513) 381-6600
Fax: (513) 381-4150
E-mail: mbyrne@jksmlaw.com

CERTIFICATE OF SERVICE

I hereby certify that on November 22, 2004, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Grant S. Cowan, Esquire
Frost Brown Todd LLC
Attorney for Defendant
International Paper Company
2200 PNC Center
201 E. Fifth Street
Cincinnati, OH 45202
gcowan@fbtlaw.com

Vincent J. Miraglia, Esquire
International Paper Company
Legal Department
6400 Poplar Avenue
Memphis, TN 38197
vincent.miraglia@ipaper.com

W. Carter Younger, Esquire
McGuire Woods LLP
Attorney for Defendant
International Paper Company
One James Center
901 E. Cary Street
Richmond, VA 23219
cyounger@mcguirewoods.com

James B. Robinson, Esquire
Kircher, Robinson & Welch
Attorney for Defendant
PACE International Union
2520 Kroger Building
1014 Vine Street
Cincinnati, OH 45202
kircher@fuse.net

Robert J. Hollingsworth, Esquire
Cors & Bassett
Attorney for Defendant Smart Papers, LLC
537 E. Pete Rose Way, Suite 400
Cincinnati, OH 45202
rjh@corsbassett.com

Stanley F. Lechner, Esquire
Laine S. Posel, Esquire
Morgan, Lewis & Bockius
Attorney for Defendant
Smart Papers, LLC
1111 Pennsylvania Avenue, N.W.
Washington, DC 20004
slechner@morganlewis.com
lpose@morganlewis.com

Robert I. Doggett, Esquire
Attorney for Defendant
PACE Local 5-1967
6740 Clough Pike, Room 200
Cincinnati, OH 45244
rdoggett@sprynet.com

I also certify that I have mailed by United States Postal Service the document to the following non CM/ECF participants:

Ronald Morgan, Esquire
Morgan & Associates
118 South Second Street
Hamilton, OH 45011

/s/ Mark J. Byrne
MARK J. BYRNE - #0029243
Attorney for Plaintiffs